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Air Resources Board and
Steven S. Cliff, Executive Officer*

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

**THE TWO HUNDRED FOR
HOMEOWNERSHIP, a California
Nonprofit Public Benefit Corporation,
ROBERT APODACA, an individual, and
JOSE ANTONIO RAMIREZ, an individual,**

Petitioners and Plaintiffs,

v.

**CALIFORNIA AIR RESOURCES BOARD,
STEVEN S. CLIFF, in his official capacity,
and DOES 1-25,**

Respondents and
Defendants.

1:22-cv-01474-ADA-BAM

**NOTICE OF MOTION AND
RESPONDENTS' MOTION TO DISMISS
PETITIONERS' VERIFIED
COMPLAINT AND PETITION**

Date: April 24, 2023
Time: 1:30 p.m.
Dept: Courtroom 1
Judge: Hon. Ana de Alba
Trial Date: Not Set
Action Filed: November 14, 2022

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on April 24, 2023, at 1:30 p.m., or as soon thereafter as the
3 matter may be heard, Respondents the California Air Resources Board (CARB) and Steven S.
4 Cliff, Ph.D., in his official capacity as CARB's Executive Officer (collectively, Respondents), by
5 and through their undersigned counsel, will, and hereby do, move this Court for an order
6 dismissing the Verified Complaint and Petition (Petition) of Petitioners The Two Hundred for
7 Homeownership, Robert J. Apodaca, and Antonio Ramirez (collectively, Petitioners), under:

8 1. Federal Rule of Civil Procedure 12(b)(1) for lack of Article III standing as to all
9 claims against Respondents;

10 2. Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which
11 relief can be granted as to Petitioners' First, Second, Third, and Fourth Claims against
12 Respondents, as well as the Fifth and Sixth Claims under 28 U.S.C § 1367(c)(1) & (3); and

13 3. Federal Rule of Civil Procedure 12(b)(1) and (6) for lack of subject matter
14 jurisdiction and Eleventh Amendment immunity as to all claims against CARB, and as to the
15 Second, Fourth, Fifth, and Sixth Claims against CARB's Executive Officer.

16 This motion will be made before the Honorable Ana de Alba, United States District Judge,
17 Robert E. Coyle United States Courthouse, 2500 Tulare Street, Fresno, CA 93721, Courtroom 1,
18 8th Floor.

19 This motion is made upon this Notice, the accompanying Memorandum of Points and
20 Authorities, Request for Judicial Notice and Declaration of Emily M. Hajarizadeh, and all
21 pleadings, records, and other documents on file with the Court in this action.

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1 This motion is made following the conference of counsel under the Standing Order of this
2 Court, which took place on February 27, 2023, as detailed by the accompanying Declaration of
3 Emily M. Hajarizadeh.

4 Dated: March 7, 2023

Respectfully submitted,

5 ROB BONTA
6 Attorney General of California

7
8 /s/ Emily M. Hajarizadeh
9 EMILY M. HAJARIZADEH
10 Deputy Attorney General
11 *Attorneys for Respondents*
12 *California Air Resources Board*
13 *and Steven S. Cliff, Executive Officer*

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